TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1956

No. 572

CLEMENTE MARTINEZ PEREZ, PETITIONER,

vs.

HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR CERTIORARI FILED OCTOBER 10, 1956

CERTIORARI GRANTED NOVEMBER 13, 1956

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1956

No. 572

CLEMENTE MARTINEZ PEREZ, PETITIONER,

vs.

HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

INDEX

	Original	Print
Record from the U.S.D.C. for the Northern District of California, Southern Division	1	1
Complaint for declaratory judgment	1	1
Motion for a temporary restraining order	5	3
Order to show cause	6	4
Order granting temporary restraining order	7	4
Restraining order and injunction	8	5
Return to order to show cause	9	5
Answer	11	7
Findings of fact and conclusions of law	14	9
Judgment	19	12
Notice of appeal	21	13
Bond (omitted in printing)	22	
Designation of record (omitted in printing)	24	
Clerk's certificate (omitted in printing)	25	
Proceedings in U.S.C.A. for the Ninth Circuit	26	14
Statement of points	26	14

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D.C., JAN. 17, 1957

—3419-9

	Original	Print
Order submitting and granting motion to proceed on typewritten record (omitted in printing)	27	
Minute entry of argument and submissison (omitted in printing)	28	
Order directing filing of opinion and filing and recording of judgment	29	14
Opinion, Tolin, J.	30	15
Judgment	33	18
Clerk's certificate (omitted in printing)	34	
Order allowing certiorari	35	19

[fol. 1]

IN UNITED STATES DISTRICT COURT IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

No. 33292

CLEMENTE MARTINEZ PEREZ, Plaintiff

vs.

HERBERT BROWNELL, JR., Attorney General of the United States, Washington, D. C., Defendant

COMPLAINT FOR DECLARATORY JUDGMENT—Filed January 21, 1954

Comes now the plaintiff in the above entitled action and for cause of action against the defendant hereinabove named alleges as follows:

I

That the defendant hereinabove named is and has been at all times herein mentioned the Attorney General of the United States at Washington, D. C., and as such is the head of the United States Department of Justice.

II

That plaintiff has been, and at all times herein stated, is still being held in restraint and being denied his liberty by the defendant in that the plaintiff is confined to the Immigration Detention Quarters at San Francisco, California, in the said Northern District of California, Southern Divi-[fol. 2] sion thereof, and further that the defendant has ordered the plaintiff to be deported from the United States as an alien.

III

That the plaintiff is a citizen and a national of the United States and was born in the City of Smelter Settlement, County of El Paso, State of Texas, United States of America, on the 17th day of March, 1909. That a birth report, No. 5292, was filed on the 18th day of March, 1909, and

recorded in Book No. 2, at page 177, of the birth records of El Paso County. That he is the legitimate son of Clemente Martinez and Maria Perez, as evidenced by a baptismal certificate dated 20 September, 1928 and recorded in Book 11 of the baptismal records at page 27 of the Parish and Mission Santa Rosalia, at Smelter Settlement, El Paso, Texas, and further that the plaintiff is a resident of the City and County of San Francisco, State of California, and is presently residing therein.

IV

That plaintiff claims a right and privilege as a national and citizen of the United States and further claims the attending rights and privileges to remain in the United States and to enjoy all pertinent rights and privileges therein, and further that plaintiff alleges that defendant herein named has denied and still continues to deny said rights and privileges to the plaintiff on grounds that he is not a national and that the executory officials of the Department of said [fol. 3] defendant have denied and continue to deny the plaintiff such rights and privileges as a national and citizen upon the grounds that the plaintiff herein named is not a national and citizen of the United States.

V

That the plaintiff has exhausted his administrative remedies and has prosecuted this action pursuant to the provisions of Section 2201-28 U.S.C. and Section 1503-8 U.S.C. of the Nationality Act, for a judgment declaring the plaintiff to be a national and citizen of the United States.

WHEREFORE, plaintiff prays:

1: That the defendant herein or other proper representative, agents or officials of the United States Government be requested to appear and answer this Complaint.

2: That a time and date be set for hearing the evidence to be adduced on behalf of plaintiff and his witnesses.

3: That pending the hearing and determination of this action, the plaintiff be released from the custody of the Immigration and Naturalization Service and of the defendant,

and that plaintiff be allowed to remain at liberty under reasonable bond.

4: For a judgment of this Honorable Court, declaring the plaintiff to be a national of the United States.

5: For such other and further relief as may be meet and just in the premises.

[fol. 4] Clemente Martinez Perez, Plaintiff.

Duly sworn to by Clemente Martinez Perez. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 5] IN UNITED STATES DISTRICT COURT

MOTION FOR A TEMPORARY RESTRAINING ORDER—Filed January 26, 1954

Comes now the plaintiff in the above entitled action by and through counsel of record, and moves this Court for a temporary restraining order.

The plaintiff, Clemente Martinez Perez, has filed an action for a declaratory judgment, on the 21st day of January, 1954. That said plaintiff is now detained by the Department of Immigration and Naturalization in San Francisco, California.

That a deportation order will subject said plaintiff to immediate deportation, and that Bruce Barber, Director of the said Department of Immigration and Naturalization, has given notice and has indicated that he will deport said Clemente Martinez Perez from the United States and out of the jurisdiction of this Honorable Court.

That if Clemente Martinez Perez is deported, he will be put beyond the jurisdiction of this Court and will be denied his day in Court and his right to be heard in the action No. 33293 now on file with the Clerk of this Court, determining

thereby the status and claim of Clemente Martinez Perez as a national and citizens of the United States.

This motion is filed pursuant to Rule 65.

Salvatore C. J. Fusco, Attorney for Plaintiff.

[File endorsement omitted.]

[fol. 6] In United States District Court

Order to Show Cause—January 28, 1954

Good Cause Appearing Therefor and upon reading the verified Complaint on file herein;

It is hereby ordered that Bruce Barber, District Director of the Immigration and Naturalization Service, San Francisco, California, appear before this Court on the 3rd day of February, 1954, at the hour of 9:30 A.M. of said day, to show cause, if any he has why a preliminary injunction should not be issued herein, as prayed for, and that a copy of this order be served upon the said Bruce Barber, District Director of the Immigration and Naturalization Service, San Francisco, California, by mail, and that a copy of the Complaint and this order be served upon the U.S. Attorney General, his representative herein.

Dated: January 28th, 1954.

Michael J. Roche, United States District Judge.

[File endorsement omitted.]

[fol. 7] In United States District Court

Order Granting Temporary Restraining Order—January 28, 1954

Good cause appearing therefor:

It is hereby ordered, adjudged and decreed by this Court that a temporary restraining order be issued against Bruce Barber District Director of the Immigration and Naturali-

zation Service, San Francisco, California, thereby enjoining him from deporting Clemente Martinez Perez from the jurisdiction of this Court, pending the issuance of a judicial decision on the Order to Show Cause now on file.

Dated: January 28th, 1954.

Michael J. Roche, United States District Judge.

[File endorsement omitted]

[fol. 8] IN UNITED STATES DISTRICT COURT

RESTRAINING ORDER AND INJUNCTION—February 3, 1954

It is hereby ordered, adjudged and decreed that the Director of Immigration and Naturalization, Bruce Barber, and all his agents of said Department, be enjoined from deporting Clemente Martinez Perez from the jurisdiction of this Court and from the United States, until the rights of said Clemente Martinez Perez shall have been ultimately adjudicated, pursuant to the action for a declaratory judgment now on file in this Court.

Dated: January 3rd, 1954.

Michael J. Roche, Judge of the District Court.

[File endorsement omitted]

[fol. 9] IN UNITED STATES DISTRICT COURT

RETURN TO ORDER TO SHOW CAUSE—Filed February 3, 1954

Comes now Bruce G. Barber, District Director, Immigration and Naturalization Service, San Francisco, California, hereinafter referred to as the respondent, by and through his attorneys, Lloyd H. Burke, United States Attorney, and Charles Elmer Collett, Assistant United States Attorney, and for reasons why a preliminary injunction should not be issued asserts as follows:

I

That the plaintiff was born in El Paso County, Texas, on March 17, 1909, of Mexican national parents.

II

That the plaintiff was arrested by the Immigration and Naturalization Service on June 12, 1953, on the ground that he had lost his United States nationality by remaining outside the United States from November 7, 1944, to August 1947 for the purpose of avoiding or evading training and service in the armed forces of the United States and that he had reentered the United States at El Paso, Texas, on June 19, 1952, while not in possession of a valid immigration visa.

[fol. 10]

III

That the plaintiff was ordered deported from the United States for the above reasons on July 16, 1953, by a Special Inquiry Officer.

IV

That on October 8, 1953, the order of the Special Inquiry Officer was affirmed and the appeal dismissed by the Board of Immigration Appeals at Washington, D. C.

V

That pursuant to the decision of the Board of Immigration Appeals a warrant of deportation was issued on October 8, 1953.

Wherefore, the respondent moves that the order to show cause be discharged and the restraining order issued January 28, 1954, be terminated on the ground that there is a valid and exis-int order of deportation under which the respondent may lawfully deport the plaintiff herein from the United States.

Dated at San Francisco, California, this 3rd day of February, 1954.

Lloyd H. Burke, United States Attorney, Charles Elmer Collett, Assistant United States Attorney, Attorneys for defendant.

[File endorsement omitted].

[fol. 11] IN UNITED STATES DISTRICT COURT

ANSWER—Filed February 12, 1954

Comes now Herbert Brownell, Jr., Attorney General of the United States, defendant in the above entitled action, by and through his attorneys Lloyd H. Burke, United States Attorney and Charles Elmer Collett, Assistant United States Attorney, and in answer to plaintiff's complaint admits, denies, and alleges as follows:

I

Admits the allegation contained in paragraph I of the Complaint.

II

Denies the allegations contained in paragraph II of the complaint and affirmatively asserts that the plaintiff is lawfully detained by the District Director, Immigration and Naturalization Service, San Francisco, pursuant to a valid order of deportation.

III

Denies that the plaintiff is a citizen or national of the United States, but admits that plaintiff was born in El Paso County, Texas, on March 17, 1909, and that he is the legitimate son of Clemente Martinez and Paria Perez, both of whom are nationals of Mexico; denies that plaintiff is a resi- [fol. 12] dent of the City and County of San Francisco and affirmatively asserts that he is temporarily detained in said city.

IV

Denies the allegations contained in paragraph IV of the complaint and affirmatively asserts that the plaintiff is not a national of the United States by reason of the fact that he has expatriated himself by remaining outside the United States to avoid military training and service.

V

Admits the allegations contained in paragraph V.

First Affirmative Defense

Defendant asserts that plaintiff remained outside the United States from November 7, 1944, to July 30, 1947, for the purpose of avoiding or evading training or service in the armed forces of the United States and that he thereby expatriated himself under the provisions of Section 401(j) of the Nationality Act of 1940 (8 U.S.C. 801(j)).

Second Affirmative Defense

Defendant asserts that plaintiff voted in a political elec- [fol. 13] tion in Mexico in 1946 and that he thereby expatriated himself under the provisions of Section 401(e) of the Nationality Act of 1940 (8 U.S.C. 801(e)).

Defendant asserts that plaintiff is properly subject to deportation as an alien, having lost his United States citizenship and having entered the United States on June 19, 1952, for permanent residence without an immigration visa as required by 8 U.S.C. 213(a).

Wherefore, defendant prays that the declaratory judgment sought by plaintiff be denied on the ground that the plaintiff has lost his American nationality by expatriation and that the plaintiff is properly subject to deportation from the United States.

(S.) Lloyd H. Burke, United States Attorney; Charles Elmer Collett, Assistant United States Attorney; Attorneys for defendant.

Acknowledgment of service (omitted in printing).

[File endorsement omitted].

[fol. 14] IN UNITED STATES DISTRICT COURT

FINDINGS OF FACT AND CONCLUSIONS OF LAW—Filed April 9, 1954

The above cause having come on regularly for trial before the Honorable O. D. Hamlin, Judge, presiding without a jury, the plaintiff appearing by his attorney, Salvatore C. J. Fusco, and the defendant appearing by his attorneys, Lloyd H. Burke, United States Attorney, and Charles Elmer Collett, Assistant United States Attorney, and evidence having been introduced on behalf of the plaintiff and the defendant, and the Court, having considered the same and being fully advised in the premises, now makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

I

The plaintiff, Clemente Martinez Perez, is the son of Mexican-born parents. He was born in the United States at El Paso, Texas, March 17, 1909.

II

The defendant, Herbert Brownell, Jr., is the Attorney General of the United States and as such is the head of the Immigration and Naturalization Service.

III

Plaintiff resided in the United States from the date of [fol. 15] his birth until about 1919 or 1920, at which time he departed to Mexico with his parents. Plaintiff resided continuously in Mexico from about 1919 or 1920 until June 19, 1952.

IV

Plaintiff in 1928 was informed that his birthplace was in the State of Texas. In 1932 he married a Mexican national; he claims that he is still married to the same person, and that there are seven children the issue of said marriage. Said wife and children have at all times resided in Mexico.

V

On July 28, 1943, plaintiff applied for admission to the United States as a Mexican alien railroad laborer. His application to Immigration authorities at that time stated that he was a native-born citizen of Mexico, having been born in Encarnacion de Diaz, Jalisco, Mexico. He was permitted to enter the United States for a temporary period for the purpose of performing services as a railroad laborer.

VI

Plaintiff returned to Mexico about March, 1944. Within one month thereafter he again applied for admission to the United States as a railroad laborer, again claiming that he was a native-born citizen of Mexico. He was admitted on the previous temporary authority for the purpose of continuing his employment as a railroad laborer. Plaintiff departed to Mexico in November, 1944.

[fol. 16]

VII

Plaintiff knew of the outbreak of World War II and of the duty of male citizens of the United States of America to register under the Selective Service Laws of the United States of America.

VIII

Plaintiff did not, at any time, register in accordance with the provisions and regulations of the Selective Training and Service Act of 1940.

IX

Plaintiff applied for admission to the United States as a citizen of the United States at the port of El Paso, Texas, on July 30, 1947. He was held for hearing before a Board of Special Inquiry. During the course of said hearing plaintiff admitted that he had remained outside the United States to avoid military service and that he had voted in elections in Mexico. He was ordered excluded by the Board of Special Inquiry on August 26, 1947, on the ground that he had expatriated himself.

X

Plaintiff appealed from the decision of the Board of Special Inquiry, and in his appeal again admitted that he had remained outside the United States to avoid military service and that he had voted in Mexican political elections. The Appeal was dismissed by the Assistant Commissioner [fol. 17] and by the Board of Immigration Appeals. The excluding order of the Board of Special Inquiry was affirmed.

XI

Plaintiff was again permitted to ented the United States on June 19, 1952 as a Mexican agricultural laborer upon the claim that he was a native-born citizen of Mexico.

XII

Plaintiff surrendered to Immigration authorities in San Francisco, California, on May 15, 1953 as an alien unlawfully in the United States but claimed that he was a citizen of the United States by birth and thereby entitled to remain. He was arrested in deportation proceedings and, after hearing before a Special Inquiry Officer, was ordered deported as an alien.

XIII

Plaintiff remained outside the United States from November 1944 to July 1947 for the purpose of avoiding or evading training or service in the United States Armed Forces.

XIV

Plaintiff voted in a political election in Mexico in July, 1946.

Conclusions of Law

I

Plaintiff having been born in the United States of America, was a citizen and national of the United States of [fol. 18] America by birth.

II

Plaintiff lost his said nationality of the United States of America under the Nationality Act of 1940, as amended

September 27, 1944 (8 USC 801(j)), by remaining outside of the jurisdiction of the United States in time of war for the purpose of evading and avoiding training and service in the land, air and naval forces of the United States.

III

Plaintiff lost his said nationality under the Nationality Act of 1940 (8 USC 801(e)) by voting in a political election in a foreign state: to-wit: Mexico.

IV

Judgment shall be entered in favor of defendant and against plaintiff, denying the relief as prayed for by plaintiff and adjudging that plaintiff is not a national or citizen of the United States of America.

Dated: April 9, 1954.

(S.) O. D. Hamlin, United States District Judge.

[File endorsement omitted.]

[fol. 19] In United States District Court for the Northern District of California, Southern Division

Civil No. 33293

Clemente Martinez Perez, Plaintiff,

vs.

Herbert Brownell, Jr., Attorney General of the United States, Washington, D. C., Defendant

Judgment—April 9, 1954

The above-entitled action came on for trial on February 17, 1954, before the above-entitled Court, the Honorable O. D. Hamlin, Judge presiding, the plaintiff appearing by his attorney Salvatore C. J. Fusco, and the defendant appearing by his attorneys Lloyd H. Burke, United States Attorney, and Charles Elmer Collett, Assistant United States

Attorney, and the Court having filed herein its Findings of Fact and Conclusions of Law and having directed that judgment be entered in accordance therewith.

Now, therefore, it is ordered, adjudged and decreed:

(1) that the relief prayed for by the plaintiff in his complaint herein be and the same is hereby denied;

(2) that plaintiff Clemente Martinez Perez is not a National or citizen of the United States of America.

[fol. 20] Dated: April 9th, 1954.

(S.) O. D. Hamlin, Judge of the United States District Court.

Entered in Civil Docket April 12, 1954.

[File endorsement omitted.]

[fol. 21] In United States District Court

Notice of Appeal—June 4, 1954

Notice is hereby given that on this 7th day of June, 1954, plaintiff hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit from the order of this Court dated on the 12th day of April, 1954 in favor of defendant and against said plaintiff.

(S.) Salvatore C. J. Fusco, Attorney for Plaintiff.

[fols. 22-23] Bond on appeal for $250.00 filed August 27, 1954 omitted in printing.

[fol. 24] Designation of Record on Appeal (omitted in printing)

[fol. 25] Clerk's Certificate to foregoing transcript omitted in printing.

[fols. 26-27] IN UNITED STATES COURT OF APPEALS

STATEMENT OF POINTS

Plaintiff sets forth the following points on which he intends to rely on this appeal:

1. The Court erred in holding that CLEMENTE MARTINEZ PEREZ is not a national or citizen of the United States of America.

2. The Court erred in holding that the plaintiff had not sustained the burden of proof.

3. The Court erred in finding that the defendant has sustained the affirmative allegations in defendant's Answer.

4. That the statute upon which the defendant relied to expatriate the plaintiff is unconstitutional.

5. That the findings, conclusions and judgment of the District Court are unsupported and contrary to the evidence of the record.

Respectfully Submitted, (S.) Salvatore C. J. Fusco,
Attorney for Plaintiff-Appellant.

Proof of Service (omitted in printing).

[File endorsement omitted].

[fol. 28] MINUTE ENTRY OF ARGUMENT AND SUBMISSION—July 9, 1956 (Omitted in Printing)

[fol. 29] IN UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

ORDER DIRECTING FILING OF OPINION AND FILING AND RECORDING OF JUDGMENT—July 12, 1956

Ordered that the typwritten opinion this day rendered by this Court in above cause be forthwith filed by the Clerk, and that a Judgment be filed and recorded in the minutes of the Court in accordance with the opinion rendered.

[fol. 30] IN UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 14,497

CLEMENTE MARTINEZ PEREZ, Appellant,

vs.

HERBERT BROWNELL, JR., Attorney General of the United States, Washington, D. C., Appellee

Appeal from the United States District Court for the Northern District of California, Southern Division

Before: DENMAN, Chief Judge, HASTIE, Circuit Judge and TOLIN, District Judge

OPINION—July 12, 1956

TOLIN, District Judge:

This is an action wherein appellant sought declaratory relief.[1] After trial, the District Court found against him. He has not attacked the evidence but contended in the trial Court, and insists here, that Congress was without power to enact the statute which has been invoked against him.

Briefly stated, the facts found by the District Court are that appellant was born in El Paso, Texas, March 17, 1909, and resided in the United States until 1919 or 1920 when his parents took him to Mexico.

In 1928 he was informed that he had been born in Texas.

During World War II he applied for admission and was admitted into the United States as a Mexican alien railroad worker. His application for such entry contained his recitation that he was a native-born citizen of Mexico.

[fol. 31] The Court found that he knew at the outbreak of World War II that it was the duty of male citizens of the United States of America to register under the Selective Service Laws of the United States of America. Appellant did not so register at any time. During 1947 he was in

[1] Brought pursuant to Title 28, U. S. C. § 2201, and Title 8, U. S. C. § 1503.

Mexico and during that year applied for admission to the United States as a citizen of the United States. The District Court found that appellant was then held for a hearing before a Board of Special Inquiry and

> "* * * During the course of said hearing plaintiff admitted that he had remained outside the United States to avoid military service and that he had voted in elections in Mexico * * *".

The District Court further found:

> "Plaintiff remained outside the United States from November 1944 to July 1947 for the purpose of avoiding or evading training or service in the United States Armed Forces.
>
> "Plaintiff voted in a political election in Mexico in July, 1946."

On May 15, 1953, he surrendered to Immigration authorities in San Francisco as an alien unlawfully in the United States but claimed that he was a citizen of the United States by birth and thereby entitled to remain. This contention was urged in the present suit where the District Court stated in its Conclusions of Law:

> "Plaintiff lost his said nationality of the United States of America under the Nationality Act of 1940, as amended September 27, 1944 (8 USC 801(j)), by remaining outside of the jurisdiction of the United States in time of war for the purpose of evading and avoiding training and service in the land, air and naval forces of the United States.
>
> "Plaintiff lost his said nationality under the Nationality Act of 1940 (8 USC 801(e)) by voting in a political election in a foreign state: to-wit: Mexico."

Legislation providing for expatriation has been known in the United States at least since 1865 when Congress provided for forfeiture of the right of citizenship of deserters and enlisted draftees who depart from their district [fol. 32] or from the United States with intent to avoid draft into the armed forces.[2] The validity of the Act was

[2] Sec. 21 of the Act of March 3, 1865, 13 Stat. 490.

assumed and its effectiveness as an expatriation statute applied in a series of cases.[3]

It is not difficult to appreciate that a nation which requires successful applicants for naturalization to take an oath that they will render either military or certain service in lieu thereof, to the United States, would logically impose expatriation upon native-born citizens who repudiate a like obligation. However, the most direct authority approving the right of Congress to fix the conditions for loss of nationality arose in a case which had nothing to do with military service. In *Mackenzie v. Hare*,[4] a former Nationality Act was upheld in provisions which brought about expatriation of a woman by marriage to an alien. The Supreme Court ruled that this was within the power of Congress.

Expatriation was also accomplished by appellant's participation in a foreign election.[5]

Both grounds referred to in the quoted Conclusions of Law were within the statutes there referred to by the District Court. The right of Congress to enact such laws is clearly demonstrated by the cited cases.

The Judgment is affirmed.

[File endorsement omitted.]

---

[3] Kurtz v. Moffitt, 115 U. S. 487; In re Carver, 142 F. 623; United States v. Snow, 27 Fed. Cas. (No. 16,350) 1255, 1256 (E. D. Tenn.).

[4] 239 U. S. 299.

[5] Acheson v. Wohlmuth, 196 F. 2d 866; Acheson v. Kuniyuke, 189 F. 2d 741.

[fol. 33] In United States Court of Appeals for the Ninth Circuit

No: 14,497

Clemente Martinez Perez, Appellant

vs.

Herbert Brownell, Jr., Attorney General of the United States, Appellee

Judgment—Filed and entered—July 12, 1956

Appeal from the United States District Court for the Northern District of California, Southern Division.

This cause came on to be heard on the Transcript of the Record from the United States District Court for the Northern District of California, Southern Division, and was duly submitted.

On consideration whereof, it is now here ordered and adjudged by this Court, that the Judgment of the said District Court in this cause be, and hereby is affirmed.

[File endorsement omitted.]

[fol. 34] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 35] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1956

No. 318 Misc.

[Title omitted]

On petition for writ of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit.

ORDER ALLOWING CERTIORARI—November 13, 1956

On consideration of the motion for leave to proceed herein in forma pauperis and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed in forma pauperis be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted. The case is transferred to the appellate docket as No. 572 and placed on the summary calendar.

(3419-9)